

## **REMARKS**

This is a full and timely response to the nonfinal Office Action of August 7, 2003. Reconsideration and allowance of the application and all presently pending claims are respectfully requested.

Upon entry of this Response, claims 1, 3, 6-9, 15, 29, and 31-41 are pending in this application. Claims 1, 3, 6-9, 15, and 29 have been elected. Claims 1, 3, 6, 9, and 29 have been directly amended herein. Claims 31-41 are newly added. The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims. Applicants believe that no new matter has been added and that a new search is not required to examine the amended claims and the newly added claims.

## **CLAIMS**

### **Claims Objections**

Claims 4, 5, 12, and 13 have been canceled so the rejection should be withdrawn.

### **Double Patenting Rejection**

Claims 1, 2, 6, 7, 9, and 14 have been provisionally rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over claims 1, 3, and 6 of U.S. Patent Application 10/074,067, in view of knowledge allegedly possessed by one skilled in the art.

Although the Applicants traverse the rationale presented in the Office Action, a Terminal Disclaimer is filed herewith in compliance with 37 C.F.R. §1.321(c) to overcome the provisional double patenting rejection. Accordingly, the Applicants respectfully request that the double patenting rejection to pending claims 1, 2, 6, 7, 9, and 14 be withdrawn.

In filing the Terminal Disclaimer, the Applicants rely upon the rulings of the Federal Circuit that the filing of such a Terminal Disclaimer does not act as an admission, acquiescence, or estoppel on the merits of the obviousness issue. “In legal principle, the filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither presumption nor estoppel on the merits of the rejection.” *Quad Environmental Tech v. Union Sanitary*, 946 F.2d 870, 874 (Fed. Cir. 1991); and *Ortho Pharmaceutical Corp. v. Smith*, 959 F.2d 936, 941-942 (Fed. Cir. 1992).

### **Claim 1**

Claim 1 is rejected under 35 U.S.C. §102(b) and §102(e) as purportedly being anticipated by the references (US 3,950,073, 5,562,838, 5,278,925, and 6,285,813, and US Application 2002/0076188) in the Office Action. Claim 1, as amended, reads as follows:

1. A chip-level electronic package, comprising:  
at least one waveguide having a waveguide core, ***an air-gap cladding around a portion of the waveguide cores, and an overcoat layer engaging a portion of the air-gap cladding.***

(Emphasis added). The Applicants traverse the rejections and submit that the rejections of claim 1 under 35 U.S.C. §102 should be withdrawn because the references (US 3,950,073, 5,562,838, 5,278,925, and 6,285,813 and US Application 2002/0076188) do not disclose, teach, or

suggest the highlighted portions in amended claim 1 above. Thus, the rejection to claim 1 should be withdrawn.

In addition, the Applicants respectfully submit that pending dependent claims 3, 6-9, 15, and 31-33 include every feature of independent claim 1. Thus, pending dependent claims 3, 6-9, 15, and 31-33 are allowable over the prior art of record. *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

### **Claim 29**

Claim 29 is rejected under 35 U.S.C. §102(b) as purportedly being anticipated by 5,562,838. Claim 29, as amended, reads as follows:

29. A method of operating a chip-level electronic package comprising:  
coupling an optical signal to a waveguide in the wafer-level electronic package; and  
***communicating the optical signal through the waveguide, the waveguide having a waveguide core, an air-gap cladding around a portion of the waveguide core, and an overcoat layer engaging a portion of the air-gap cladding.***

(Emphasis added). The Applicants traverse the rejections and submit that the rejections of claim 29 under 35 U.S.C. §102 should be withdrawn because 5,562,838 does not disclose, teach, or suggest the highlighted portions in amended claim 29 above. Thus, the rejection to claim 29 should be withdrawn.

### **Claims 34-41**

Claims 34 through 41 have been added to more clearly define embodiments, among others, of the present invention and are allowable for at least the reasons that claims 1, 3, 6-9, 15, 29, and 31-33 are allowable. Therefore, the Applicants request that claims 34 through 41 be allowed to issue.

### **CONCLUSION**

The Applicants respectfully request that this application and all presently pending claims be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted ,

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